

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

SEAN ZEIGLER,

Petitioner,

: Case No. 1:18-cv-580

- vs -

District Judge Michael R. Barrett
Magistrate Judge Michael R. Merz

WARDEN,
Lebanon Correctional Institution

:

Respondent.

RESPONSE TO PETITIONER'S LETTER

This habeas corpus case, brought *pro se* by Petitioner Sean Zeigler, is before the Court on Zeigler's undated Letter postmarked September 6, 2023, and received and docketed September 8, 2023 (ECF No. 39).

Mr. Zeigler reports that he just received a returned piece of mail which he says consists of a motion for extension of time he filed July 29, 2023, and addressed to "441 Vine Street, 1700 Carew Tower, Cincinnati, Ohio 45202." (*Id.* at PageID 2006). Zeigler claims he has always used this address in the past and his mail has gotten through.

Zeigler's claim is contradicted by the record. His initial Petition was mailed to the Clerk of this Court at the Potter Stewart United States Courthouse at 100 East Fifth Street, Cincinnati, Ohio 45202 (ECF No. 1, PageID 17). It is addressed by hand and does not show that it was forwarded from some other address. That has been the correct address for the Clerk of this Court

in Cincinnati since the undersigned was admitted to practice in November 1970. That is the address given for the Court on its website, www.ohsd.uscourts.gov.

Contrary to his report in this Letter, Zeigler has not typically used that address to file papers by mail. Instead, he has often used the electronic scanner provided by the Court to the ODRC (See, e.g., Traverse, ECF No. 15, PageID 1401). Petitioner's Motion to Reinstate the case to the active docket was filed by mail, but correctly addressed to the Potter Stewart Courthouse (ECF No. 18, PageID 4445). Zeigler's Motion for Extension of Time was filed by mail to the correct address (ECF No. 25, PageID 1748). The Court entered judgment in this case on September 9, 2022 (ECF No. 31). Zeigler moved for relief from judgment ten months later (ECF No. 32). Rather than use electronic filing or count on the "mailbox rule" by depositing it with prison officials, he sent this motion by certified mail. *Id.* at PageID 1948. The undersigned recommended denying that motion and Zeigler did not object or obtain an extension of time to object, so Judge Barrett adopted the Report and denied the Motion (ECF No. 34).

Most recently Zeigler filed Objections to the Report recommending denial of relief from judgment (ECF No. 35). These Objections were not electronically filed through the court-provided scanner, but were mailed, postmarked August 24, 2023, and addressed to the Carew Tower address. *Id.* at PageID 1982. The Magistrate Judge credited Zeigler with filing on the 24th, but struck the Objections because the due date was July 29, 2023, and Petitioner had neither requested nor received an extension. Petitioner asks that his Objections be reinstated. The letter was mailed to the Dayton location of Court at 200 West Second Street, Dayton, Ohio 45402.

The request is DENIED for several reasons. First of all, Zeigler did not serve a copy on the Warden's counsel (whose address is in the Carew Tower in Cincinnati). Second, the Order

denying relief from judgment was entered in this case on August 1, 2023, so that Zeigler's time to appeal from that Order expired August 31, 2023, but no notice of appeal was filed.

September 11, 2023.

s/ *Michael R. Merz*
United States Magistrate Judge